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**Contact:** John Hellerman  
Hellerman Baretz Communications  
202-274-4762  
[jhellerman@hellermanbaretz.com](mailto:jhellerman@hellermanbaretz.com)

[Joseph Grundfest](mailto:jgrundfest@stanford.edu)  
Stanford Law School  
650-723-0458  
[grundfest@stanford.edu](mailto:jgrundfest@stanford.edu)

[John Gould](mailto:jgould@cornerstone.com)  
Cornerstone Research  
617-927-3000  
[jgould@cornerstone.com](mailto:jgould@cornerstone.com)

**FOR IMMEDIATE RELEASE**

**Securities Class Action Filings Targeting M&A Transactions Increase Dramatically While Credit-Crisis Filings Fall Sharply According to Annual Report by  
Stanford Law School and Cornerstone Research**

**Filings for the Year Remain Low**

**Boston and Stanford, January 20, 2011**—Federal securities fraud class action activity increased in the second half of 2010, but the number of filings for the full year remained low, according to *Securities Class Action Filings—2010 Year in Review*, a semiannual report prepared by the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research. A total of 104 federal securities class actions were filed in the second half of the year compared with 72 filings in the first six months of the year. For the full year of 2010, there were 176 filings, a 4.8 percent increase from 168 filings in 2009, but 9.7 percent below the annual average of 195 filings between 1997 and 2009.

The number of lawsuits alleging disclosure violations in merger and acquisition (M&A) transactions increased to 40 filings in 2010 from the seven observed in 2009. These claims are typically generated by alleging violations of Section 14 of the Securities Exchange Act of 1934, which forbids solicitation of proxies in violation of rules and regulations, and making state law fiduciary claims. The 20 percent increase in underlying M&A activity seems insufficient to explain fully the almost sixfold increase in M&A filings, an increase that may largely be a result of changes in plaintiff law firm behavior rather than changes in underlying market factors.

The data also indicate a spike in filings against Chinese companies. In 2010 Chinese issuers were named in 12 filings, or 42.9 percent of all filings against foreign issuers. Filings against foreign issuers accounted for 15.9 percent of all filings, which is among the highest rate ever observed.

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Filings related to the credit crisis were sharply lower for the year, with 13 such filings in 2010, a 76.4 percent decrease from the 55 filings in 2009. Credit-crisis filings in 2010 represented just 7.4 percent of all filings compared with 32.7 percent in 2009. New analysis shows that settlement rates are lower for credit-crisis filings compared with non-credit-crisis filings, while the dismissal rates are similar between the two types. The difference in settlement rates appears to be driven by filings in the Second Circuit.

The Heat Maps of S&P 500 Securities Litigation™ show that about one out of every 19 companies in the S&P 500 Index at the beginning of 2010 was a defendant in a class action filed during the year compared with an average of about one out of every 15 such companies between 2000 and 2009. Filings in the Financials sector continued to decrease. In 2010 only 10.3 percent of financial companies were named defendants in a class action compared with the 10-year historical average of 11.8 percent. Filings in the Health Care sector spiked after a lull in 2009 and made Health Care the hottest sector on the Heat Maps for the year. In 2010 15.4 percent of the companies in the Health Care sector, representing 33.7 percent of the sector's market capitalization, were named defendants in a class action.

The report also introduces a new analysis of the litigation exposure following initial public offerings (IPOs). This analysis shows that exposure to securities class actions is highest during the first few years after an IPO. The incremental litigation exposure decreases over time as companies mature and the volatility of their stock price decreases. Companies bore the highest risk in the second year after an IPO when they faced a 4.1 percent chance of being sued. A newly public company has a 28.7 percent chance of being subject to at least one securities class action in the 11 years after its IPO.

### **Commentary**

*Professor Joseph Grundfest, Director of the Stanford Law School Securities Class Action Clearinghouse in cooperation with Cornerstone Research:*

- “The sharp increase in federal litigation alleging disclosure violations in M&A transactions suggests that plaintiff lawyers are scrambling for new business as traditional fraud cases seem to be on the decline. There is little reason to believe that this trend will reverse or slow down; if anything, plaintiff lawyers may well bring an increasing percentage of these claims in federal court in an effort to control the litigation and to share in any fees that might result.”
- “The spike in litigation against Chinese issuers presents an interesting challenge for investors and regulators alike. It's impossible to deny China's ascending importance as a global market force, but tensions may well arise as some Chinese issuers struggle to conform to Western market norms and others might engage in outright fraud.”

*Dr. John Gould, Senior Vice President of Cornerstone Research:*

- “This year we took a close look at how often firms that had initial public offerings were defendants in securities litigation. We found that there is more than a 10 percent chance that firms would be targeted within three years of an IPO, and firms face the highest risk of being sued in their second year of public trading.”
- “With the wave of credit-crisis filings behind us, the industry focus for class action filings shifted to Health Care, where more than one out of every seven S&P 500 companies was involved in a class action.”

### **Additional Key Findings**

- The U.S. Government Accountability Office reported that for-profit colleges allegedly provided misleading or fraudulent information to prospective students, and the U.S. Department of Education reported poor student loan repayment rates at a number of for-profit colleges. These findings have since led to 10 class actions against for-profit colleges.

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- The median lag time between the end of the class periods and the filing dates in the second half of 2010 was 10 days. This was a 60 percent decrease from the median lag time of 25 days in the first half of 2010 and a 91.1 percent decrease from the median lag time of 112 days in the second half of 2009. This decrease can be partially explained by the large number of M&A filings in 2010, which tend to be filed quickly after the end of the class period. The median filing lag for class actions filed between 1997 and 2009 was 28 days.
- Class actions filed in more recent years tend to reach dismissal more quickly, though the time to reach settlement has remained stable. For example a higher percentage of dismissed class actions filed between 2001 and 2005 reached dismissal within three years compared with class actions filed between 1996 and 2000, and dismissed class actions filed between 2003 and 2005 were much less likely to take more than four years to reach dismissal compared with class actions filed before 2003.
- The semiannual number of filings increased 44.4 percent to 104 filings in the six months ending December 31, 2010, from 72 in the first half of 2010.
- The three circuits with the highest number of filings in 2010 were the Ninth Circuit with 51 filings, the Second Circuit with 45 filings, and the Third Circuit with 14 filings. The Second and Ninth Circuits have been the most active circuits in each year since 1996. The fact that the Ninth Circuit surpassed the Second Circuit in 2010 is at least partially attributable to the decline in credit-crisis filings, which tend to be concentrated in the Second Circuit.
- The number of unique issuers sued increased by 19.5 percent to 141 issuers. Multiple filings against the same issuer declined in 2010. Unique issuers as a percentage of total filings in 2010 increased to 80.1 percent from a historic low of 70.2 percent in 2009.
- Disclosure Dollar Losses (DDL) totaled \$72 billion in 2010, a 14.3 percent decrease from 2009 and 45.9 percent below the historical average of \$133 billion between 1997 and 2009. There were four mega DDL filings—filings with DDL greater than \$5 billion in 2010—all of which occurred in the first half of the year. These filings represented 49.6 percent of the DDL Index™ in 2010.
- Maximum Dollar Losses (MDL) totaled \$474 billion in 2010, a 13.8 percent decrease from 2009. There were 14 mega MDL filings—filings with an MDL of \$10 billion or more. These 14 filings accounted for \$375 billion, or 79.1 percent of the MDL Index. Two of the 14 mega MDL filings were related to the credit crisis, and five exceeded \$25 billion in MDL. In 2009 there were 11 mega MDL filings, accounting for 72.6 percent of the MDL Index in that year. Six of the mega MDL filings in 2009 were related to the credit crisis, and six mega filings exceeded \$25 billion in MDL. Mega MDL filings between 1997 and 2009 represented 73.5 percent of the total MDL Index in that period.

Professor Grundfest and Dr. Gould are available to speak to the media about the report titled *Securities Class Action Filings—2010 Year in Review*. The full text of the report is available at the [Stanford Law School Securities Class Action Clearinghouse](http://securities.stanford.edu) (<http://securities.stanford.edu>) and [Cornerstone Research](http://www.cornerstone.com/securities) (<http://www.cornerstone.com/securities>) web sites.

The Securities Class Action Clearinghouse is an authoritative source of data and analysis on the financial and economic characteristics of federal securities fraud class action litigation.

Cornerstone Research provides economic and financial consulting and expert testimony in litigation and regulatory proceedings and cosponsors the Stanford Law School Securities Class Action Clearinghouse. Information about Cornerstone Research is available at <http://www.cornerstone.com>.